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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,013	06/23/2004	Erella Pines	2388/3	2726

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EXAMINER

JOHNSON, SHEVON ELIZABETH

ART UNIT	PAPER NUMBER
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3766

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

87

Office Action Summary	Application No.	Applicant(s)	
	10/500,013	PINES ET AL.	
	Examiner	Art Unit	
	Shevon E. Johnson	3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 58-61 is/are allowed.
- 6) ☒ Claim(s) 1-17, 22-24, 27-42, 47, 50-54 and 56 is/are rejected.
- 7) ☒ Claim(s) 18-21, 25, 26, 43-46, 48, 49, 55 and 57 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Drawings

1. The drawings are objected to because of the informalities give on the attached PTO-948. Appropriate correction is required. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "checking a state of said control device" in line 7, of claim 1 is not clearly disclosed in the specification to allow enablement.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-17, 22-24, 27-42, 47, 50-54 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolff et al. (U.S. Patent No. 6,230,052), Brenman et al. (U.S. Patent No. 6,895,280),

Wernicke et al. (U.S. Patent No. 5,188,104) and Baraff (U.S. Patent No. 5,326,349) in view of Meadows (U.S. Patent No. 6,895,280).

In regards to claims 1-12, 22, 23, 27-37, 50-54 and 56, Wolff discloses a system for electrical stimulation of salivation comprising: a control device for detecting a measure of salivation in the individual and for delivering electrical impulses to the oral cavity of the individual, a check device for modifying at least one parameter of said control device, and, a computer device for exchanging information with said check device (col. 10, lines 63-65; col. 11, lines 22-30; col. 12, line 56 - col. 13, line 4). Wolff discloses that electrical circuitry including batteries (rechargeable), microprocessor, memory, generator, electrodes and other such components by which stimulation pulses can be produced is well known in the art (col. 11, lines 49-67), as described by Brenman (col. 3, line 17 – col. 6, line 51; figs. 1-9) Wernicke (col. 7, line 53 – col. 15, line 9; fig. 1-3), and Baraff (col. 10, line 13 – col. 19, line 63; figs. 1, 2, 4, 5 and 8).

Wolff fails to disclose wherein the check device checks a state of the control device. However, Meadows discloses a system that includes a bi-directional telemetry link wherein the external device monitors the status of the internal device (abstract; col. 25, lines 11-13; col. 37, lines 14-29).

One having ordinary skill in the art would appreciate that Wolff, Brenman, Wernicke, Baraff and Meadows could be combined since they teach devices for neural stimulation and/or dental prosthesis, and thus the references are analogous art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Wolff, by incorporating a bi-directional telemetry link wherein the external device monitors the status of the internal device as taught by Meadows in order to allow the device to function efficiently.

In regards to claims 13-16 and 38-41, Brenman discloses a system wherein the housing includes an clasp (attachment element) 44 adapted to attach said housing to at least one tooth (mandibular tooth) and is capable of being repeatedly attached and removed by the individual (col. 4, lines 20-27).

In regards to claims 24 and 47, Brenman discloses a system wherein the device is fixed in the oral cavity so as to preferably stimulate the submandibular and sublingual salivary glands (col. 1, lines 8-15).

In regards to claims 17 and 42, Baraff discloses a system wherein the attachment element is a mouth guard 102, 104.

Allowable Subject Matter

5. Claims 58-61 are allowed. Claims 18-21, 25, 26, 43-46, 48-49, 55 and 57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The following is a list of prior art made of record and not relied upon but considered pertinent to applicant's disclosure.


L.L. Funk (U.S. Patent No. 527,037), Nachman (U.S. Patent No. 4,244,373), Wamubu et al. (U.S. Patent No. 5,792,210) and Glen (U.S. Patent No. 6,239,705) are dental prosthesis. Schulman (U.S. Patent No. 3,942,535 and 6,067,474) are rechargeable tissue stimulators.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shevon Johnson whose telephone number is (571) 272-2010. The examiner can normally be reached on M-F (8 a.m. - 4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shevon Johnson
Art Unit 3766


Robert Pezzuto
Supervisory Patent Examiner
Art Unit 3766